

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KELLEY COELHO,

Plaintiff,

v.

MARIE ALVARADO-GIL, *et al.*

Defendants.

Case No. 2:24-cv-2181-DC-JDP (PS)

FINDINGS AND RECOMMENDATIONS

Plaintiff has filed a motion for temporary restraining order. For the reasons discussed below, I recommend that plaintiff's motion be denied.¹

Background

Plaintiff brings this civil rights complaint against State Senator Marie Alvarado-Gil and her Chief of Staff Vanessa Bravo. ECF No. 16. In the first amended complaint, plaintiff alleges that she attended Turlock Police Department's June 2024 press conference about the release of two sexually violent predators. *Id.* at 2, 7, 14. Plaintiff and another individual were escorted out of the press area during a press conference without cause. *Id.* Plaintiff claims that defendants' actions violated her First, Fourth, Ninth, and Fourteenth Amendment rights. *Id.* at 5-6.

Plaintiff argues in her request for temporary injunctive relief that she has experienced

¹ The district judge referred this motion to the undersigned. ECF No. 35.

1 retaliation and harassment, including:

2 Public statements and social media posts from individuals believed
3 to be politically aligned with Defendant, attacking Plaintiff's
reputation and credibility.

4 Efforts to intimidate Plaintiff's supporters and associates,
5 discouraging them from engaging with Plaintiff's campaign or
business.

6 Coordinated interference with Plaintiff's child's education and
7 safety by community members and school officials allegedly
connected to Defendant.

8 ECF No. 34 at 2. Plaintiff also states that her daughter has been subjected to "bullying, targeting,
9 and retaliation in her educational environment, allegedly instigated or encouraged by individuals
10 politically or personally aligned with Defendant." *Id.* Plaintiff further argues that defendants
11 have engaged in "political collusion and misuse of influence" and "emotional and professional
12 harm." *Id.* at 2-3.

13 Plaintiff seeks by way of relief and order prohibiting defendant and her agents from:

14 Engaging in further harassment, retaliation, or intimidation of
15 Plaintiff and her family.

16 Making public or private statements intended to harm Plaintiff's
reputation or safety.

17 Contacting Plaintiff directly or indirectly.

18 *Id.* at 5.

19 Legal Standards

20 A temporary restraining order, as with any preliminary injunctive relief, is an
21 extraordinary remedy that is never awarded as of right. *See Winter v. Natural Res. Def. Council,*
22 *Inc.*, 555 U.S. 7, 24 (2008). The standards that govern temporary restraining orders are
23 "substantially similar" to those that govern preliminary injunctions. *Washington v. Trump*, 847
24 F.3d 1151, 1159 n.3 (9th Cir. 2017). To obtain injunctive relief, plaintiff must show
25 (1) likelihood of success on the merits; (2) likelihood of irreparable harm in the absence of
26 preliminary relief; (3) that the balance of equities tips in her favor; and (4) that an injunction is in
27 the public interest. *Winter*, 555 U.S. at 20. "The first factor under *Winter* is the most important—
28 likely success on the merits." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015).

1 Federal Rule of Civil Procedure 65(b) provides that:

2 (a)(1) **Notice.** The court may issue a preliminary injunction only on
3 notice to the adverse party.

4

5 (b)(1) **Issuing Without Notice.** The court may issue a temporary
6 restraining order without written or oral notice to the adverse party
7 or its attorney only if:

8 (A) specific facts in an affidavit or a verified complaint clearly
9 show that immediate and irreparable injury, loss, or damage will
10 result to the movant *before* the adverse party can be heard in
11 opposition; and

12 (B) the movant’s attorney certifies in writing any efforts made to
13 give notice and the reasons why it should not be required.

14 In addition, this court’s Local Rules impose specific requirements for the issuance of a
15 temporary restraining order. Local Rule 231 requires “actual notice to the affected party and/or
16 counsel” except in “the most extraordinary of circumstances.” Local Rule 231(a). “Appropriate
17 notice would inform the affected party and/or counsel of the intention to seek a temporary
18 restraining order, the date and time for hearing to be requested of the Court, and the nature of the
19 relief to be requested.” *Id.* Further, Local Rule 231 requires the court to consider “whether the
20 applicant could have sought relief by motion for preliminary injunction at an earlier date without
21 the necessity for seeking last-minute relief by motion for temporary restraining order.” Local
22 Rule 231(b). If the court finds that there was undue delay in seeking injunctive relief, the court
23 may deny the requested temporary restraining order on those grounds. *Id.*

24 Denial of plaintiff’s motion is appropriate on procedural grounds. Plaintiff has not
25 demonstrated that she provided notice to defendants, as required by the Federal Rules of Civil
26 Procedure and the court’s Local Rules. “Courts regularly deny temporary restraining orders
27 where movants fail to comply with procedural requirements, including where the movants are pro
28 se plaintiffs.” *Brewer v. Loancare, LLC*, No. 2:25-CV-01157-DC-CSK (PS), 2025 WL 1400288,
at *2 (E.D. Cal. May 14, 2025); *see Reno Air Racing Ass’n, Inc. v. McCord*, 452 F.3d 1126, 1131
(9th Cir. 2006) (discussing Federal Rule of Civil Procedure 65 and noting that “courts have
recognized very few circumstances justifying the issuance of an *ex parte* [temporary restraining

1 order]”); *Abdel-Malak v. Doe*, No. 5:20-cv-00322-CJC-KK, 2020 WL 5775818, at *1 (C.D. Cal.
2 Feb. 20, 2020) (denying temporary restraining order sought by a pro se plaintiff for failure to
3 satisfy Rule 65(b)’s “strict requirements”); *Tri-Valley CAREs v. U.S. Dep’t of Energy*, 671 F.3d
4 1113, 1131 (9th Cir. 2012) (“Denial of a motion as the result of a failure to comply with local
5 rules is well within a district court’s discretion.”).

6 Apart from the notice issue, the motion suffers from unreasonable delay. Plaintiff waited
7 nearly nine months after the filing of her original complaint to move for a temporary restraining
8 order, further demonstrating that the injury alleged is not so immediate as to justify an ex parte
9 temporary restraining order. Plaintiff has had sufficient time to seek “relief by motion for
10 preliminary injunction at an earlier date without the necessity for seeking last minute relief by
11 motion for temporary restraining order.” Local Rule 231(b); see *Occupy Sacramento v. City of*
12 *Sacramento*, 2:11-cv-2873-MCE, 2011 WL 5374748, at *4 (E.D. Cal. Nov. 4, 2011) (denying an
13 application for a temporary restraining order due to twenty-five-day delay in seeking that relief);
14 *Farmers Ins. Exch. v. Steele Ins. Agency, Inc.*, No. 2:13-cv-0784-MCE, 2013 WL 1819988, at *7
15 (E.D. Cal. Apr. 30, 2013) (denying an application for a temporary restraining order due to a six-
16 month delay in seeking that relief).

17 Plaintiff’s motion is also substantively defective. A temporary restraining order “is
18 appropriate when it grants relief of the same nature as that to be finally granted.” *Pac. Radiation*
19 *Oncology, LLC v. Queen’s Med. Ctr.*, 810 F.3d 631, 636 (9th Cir. 2015) (citing *De Beers Consol.*
20 *Mines v. United States*, 325 U.S. 212, 220 (1945)). While new allegations of misconduct may
21 support additional claims against a defendant, “they do not support preliminary injunctions [or
22 temporary restraining orders] entirely unrelated to the conduct asserted in the underlying
23 complaint.” *Id.* (citing *De Beers Consol. Mines*, 325 U.S. at 220) (alteration added). Thus, “there
24 must be a relationship between the injury claimed in the motion for injunctive relief and the
25 conduct asserted in the underlying complaint.” *Id.* This relationship is sufficiently strong if the
26 temporary relief sought “would grant ‘relief of the same character as that which may be granted
27 finally.’” *Id.* (quoting *De Beers Consol. Mines*, 325 U.S. at 220). Absent this nexus, the court
28 “lacks authority to grant the relief requested.” *Id.*

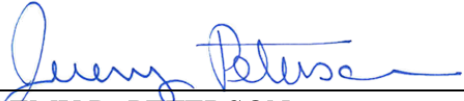
1 The crux of plaintiff's first amended complaint is that her removal from the press area at
2 then June press conference violated her First, Fourth, Ninth, and Fourteenth Amendment rights.
3 By contrast, here, plaintiff argues that defendant and others affiliated with her are harassing and
4 intimidating plaintiff and her family. While I make no determinations on the sufficiency of those
5 allegations, they are too far removed from the allegations in first amended complaint to warrant
6 temporary injunctive relief. Accordingly, the court "lacks authority to grant the relief requested,"
7 *Pac. Radiation Oncology*, 810 F.3d at 636, and I will recommend that plaintiff's motion for
8 temporary restraining order be denied.

9 Accordingly, it is hereby RECOMMENDED that plaintiff's motion for injunctive relief,
10 ECF No. 34, be DENIED.

11 These findings and recommendations are submitted to the United States District Judge
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of
13 service of these findings and recommendations, any party may file written objections with the
14 court and serve a copy on all parties. Any such document should be captioned "Objections to
15 Magistrate Judge's Findings and Recommendations," and any response shall be served and filed
16 within fourteen days of service of the objections. The parties are advised that failure to file
17 objections within the specified time may waive the right to appeal the District Court's order. *See*
18 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.
19 1991).

20 IT IS SO ORDERED.

21
22 Dated: May 20, 2025


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE